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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/665,821	09/20/2000	Kenneth J. Kirchhoff	55824USA3A.002	8078

32692 7590 11/14/2003

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EXAMINER
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BAXTER, GWENDOLYN WRENN

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 11/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/665,821

Applicant(s)

KIRCHHOFF, KENNETH J.

Examiner

Gwendolyn Baxter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-10, 12-17 and 19-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-5, 6/3, 7/6, 8/7, 9/7, 10/9, 12/14, 14-17, 19-27 and 29 is/are allowed.
- 6) ☒ Claim(s) 2, 6, 12, 13 and 28 is/are rejected.
- 7) ☒ Claim(s) 7/6, 8/7, 9/7, 10/9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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This is the fifth office action for serial number 09/665,821, Adjustable Keyboard Tray, filed on September 20, 2000.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 6, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,616,798 to Smeenge in view of U.S. Patent No. 5,655,743 to Martin.

Smeenge discloses an adjustable keyboard tray comprising a tray (11) having a molded top and bottom plates (not numbered) and a mounting plate (50). The top and bottom plates are made from a polymeric material (col. 5, lines 34+). The mounting plate is secured to the adjustable keyboard tray to the bracketing mechanism (12). The mounting plate is secured to the bottom plate of the adjustable keyboard tray in a recessed mounting area to maintain a substantially smooth under surface along the bottom plate. See figure 7. The top and bottom plate form a cavity (not numbered) and are made from plastic or synthetic resin. However, Smeenge fails to teach the bottom plate of the tray being secured to the top plate.

Martin teaches a keyboard tray comprising a top plate (21) and medial plate (22) forming a cavity therebetween. For purpose of this Office action, the medial plate will be referred to as

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the bottom plate of the keyboard tray. Beneath the bottom plate of the tray is a resilient foam material to rest upon the user's lap. The top and bottom plates are formed of a polymeric material (col. 4, line 4+). A pocket is created along a side of the keyboard tray that is aligned with an opening (33) through the side of the tray to receive and secure a mouse bracket (39) which supports a mouse platform. The mouse bracket is releasably secured in the pocket by a tab (53) and is received in a slot (52) on the mouse bracket. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the molded integral tray as taught by Smeenge to have incorporated the stackable molded top and bottom plates as taught by Martin for the purpose supporting a keyboard thereupon as merely functional equivalent parts while simultaneously supporting a mouse thereupon. Additionally, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the tray of Smeenge into a top and bottom plates, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smeenge in view of Martin, as applied to claims 2, 6, 12 and 13, and in further view of Meier. Smeenge in view of Martin teaches the limitations of the base claim, excluding the top and bottom plates being secured together by ultrasonic welding.

Meier teaches a planar structure having polymeric components that are welded together by ultrasonic or high frequency, etc. (Col. 6, lines 14-20). It would have been obvious to one having

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ordinary skill in the art at the time the invention was made to have modified the means for attaching the top and bottom plate as taught by Smeenge in view of Martin to have incorporated the ultrasonic welding teaching as taught by Meier an alternate means of attaching the polymeric top and bottom plates.

### ***Response to Arguments***

Applicant's arguments with respect to claims 2, 3, 6, 12, 13, and 28 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's argues that neither Smeenge apparatus not the Martin apparatus secures a mounting plate in a recessed mounting area, nor is there any indication in either patent how the disclosed apparatus might be modified to allow the mounting plate to be secured in a recessed mounting area to maintain a substantially smooth outer surface along the bottom plate.

As indicated in the rejection, the Smeenge reference clearly teaches a top and bottom plates being formed of a polymeric material. Figures 2 and 11 show the mounting plate (50) being secured to the bottom plate of the tray in a recessed mounting area. This recessed mounting area is not formed on the exterior of the bottom plate but rather in the interior of the bottom plate. Figure 11 shows the mounting plate in the recessed mounting area maintaining a substantially smooth outer surface along the bottom plate. Since applicant employs a transitional phrase "comprising" which is open end or inclusive language. This language does not exclude additional, unrecited elements.

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***Allowable Subject Matter***

Claims 7/6/2, 8/7/6/2, 9/7/6/2 and 10/9/7/6/2 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 3-5, 6/3, 7/6/3, 8/7/6/3, 9/7/6/3 and 10/9/7/6/3, 12/14, 14-17, 19-27 and 29 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach the retaining bracket is mounted in a recessed mounting area formed along a bottom surface of the bottom plate creating a channel therebetween that secures the mounting plate.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

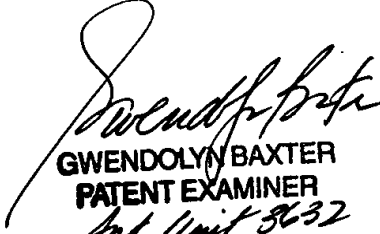
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR

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will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is (703) 308-0702. The examiner can normally be reached Monday-Friday from 8:30 A.M. to 5:00 P.M. Eastern Time Zone.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113. The fax phone number for this Group is (703) 305-3597.

  
GWENDOLYN BAXTER  
PATENT EXAMINER  
*Art Unit 3632*

Gwendolyn Baxter  
October 30, 2003